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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

VICTOR HUGO DIRCIO PARRA

Petitioner,

v.

Samuel J. Olson, Field Office Director
of Enforcement and Removal
Operations, St. Paul Field Office,
Immigration and Customs
Enforcement; Kristi Noem, in her
official capacity as Secretary of the
U.S. Department of Homeland
Security; Todd Lyons, in his official
capacity as acting director of U.S.
Immigration and Customs
Enforcement; Pam Bondi, in her
official capacity as Attorney General
of the United States; Joel Brott,
Sherburne County Jail Sheriff.

Respondents.

Case No. 0:25-cv-04593

**PETITION FOR WRIT OF
HABEAS CORPUS**

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INTRODUCTION

1. Petitioner, Victor Hugo Dircio Parra, is in the physical custody of Respondents at the Sherburne County Jail. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. On November 18, 2025, Petitioner was arrested and taken into Immigration and Customs Enforcement (“ICE”) custody under the charges of being an Alien Present Without Admission or Parole (PWAs) under INA 212(a)(6)(A)(i) (a.k.a. 8 U.S.C. § 1182(a)(6)(A)(i)).

3. The Petitioner was also charged as an Immigrant without an Immigrant Visa under INA 212 (a)(7)(A)(i)(I) (a.k.a. 8 U.S.C. § 1182(a)(7)(A)(i)(I)).

4. Based on this allegation in Petitioner’s removal proceeding, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy formalized by the BIA decision *Matter of Yajure Hurtado*, under which all ICE employees are to consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

1 5. Petitioner sought a bond redetermination hearing before
2 Immigration Judge Audrey Carr (“IJ Carr”), but on December 9, 2025, IJ
3 Carr denied bond, having determined that pursuant to, *Matter of Yajure*
4 *Hurtado*, the Petitioner was subject to mandatory detention under INA §
5 235(b)(2)(A) and thus the IJ lacked jurisdiction to assess if he could be
6 released on bond.
7

8 6. IJ Carr noted in her decision denying bond that on November 25,
9 2025, the District Court in *Maldonado Bautista v. Santacruz* granted class
10 certification to include “All noncitizens of the United States without lawful
11 status who (1) have entered or will enter the United States without
12 inspection; (2) were not or will not be apprehended upon arrival; and (3) are
13 not or will not be subject to detention under [INA 236(c)] or [241] at the time
14 the Department of Homeland Security makes and initial custody
15 determination.” IJ Carr characterized that decision as “not final” and found
16 that *Matter of Yajure Hurtado* still deprived the Court of jurisdiction over the
17 bond request.
18

19 7. Petitioner’s detention on this basis violates the plain language of
20 the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to
21 individuals like Petitioner who previously entered and are now residing in
22 the United States. Instead, such individuals are subject to a different statute,
23 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond. That
24

1 statute expressly applies to people who, like Petitioner, are charged as
2 inadmissible for having entered the United States without inspection.

3 8. Respondents' new legal interpretation is plainly contrary to the
4 statutory framework and contrary to decades of agency practice applying §
5 1226(a) to people like Petitioner.

6 9. Petitioner's detention is also illegal *ab initio* given the
7 declaratory relief granted in *Maldonado Bautista v. Santacruz* is binding on
8 the Court even as class action litigation proceeds.

9 10. Accordingly, Petitioner seeks a writ of habeas corpus requiring
10 that he be released unless Respondents provide a bond hearing under §
11 1226(a) within fourteen days.
12

13 JURISDICTION

14 11. Petitioner is in the physical custody of Respondents. Petitioner is
15 detained at the Sherburne County Jail in Elk River, Minnesota.
16

17 12. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas
18 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2
19 of the United States Constitution (the Suspension Clause).
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1 13. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
2 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
3 U.S.C. § 1651.

4 VENUE

5
6 14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*,
7 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court
8 for the District of Minnesota, the judicial district in which Petitioner
9 currently is detained.

10 15. Venue is also properly in this Court pursuant to 28 U.S.C. §
11 1391(e) because Respondents are employees, officers, and agencies of the
12 United States, and because a substantial part of the events or omissions
13 giving rise to the claims occurred in the District of Minnesota.

14 REQUIREMENTS OF 28 U.S.C. § 2243 TO SHOW CAUSE

15
16 16. The Court must grant the petition for writ of habeas corpus or
17 order Respondents to show cause “forthwith,” unless the petitioner is not
18 entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the
19 Respondents must file a return “within three days unless for good cause
20 additional time, not exceeding twenty days, is allowed.” *Id.*

21 17. Habeas corpus is “perhaps the most important writ known to the
22 constitutional law . . . affording as it does a *swift* and imperative remedy in
23 all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400
24

1 (1963) (emphasis added). “The application for the writ usurps the attention
2 and displaces the calendar of the judge or justice who entertains it and
3 receives prompt action from him within the four corners of the application.”
4 *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).
5

6 PARTIES

7 18. Petitioner Victor Hugo Dircio Parra is a citizen of Mexico who
8 has resided in the United States for nearly two decades. Petitioner has been
9 in immigration detention since November 18, 2025. After arresting Petitioner
10 Minneapolis, Minnesota, ICE did not set bond and Petitioner requested
11 review of his custody by an IJ. On December 9, 2025, Petitioner was denied
12 bond by an IJ at the Fort Snelling Immigration Court, finding she lacked
13 jurisdiction under INA § 235(b)(2). IJ Carr determined that the Petitioner
14 was detained under INA § 235 pursuant to the BIA holding in *Yajure*
15 *Hurtado* and she lacked jurisdiction to determine if the Petitioner merited
16 release on bond.
17

18 19. Respondent Samuel J. Olson is the Director of the MSP Field
19 Office of ICE’s Enforcement and Removal Operations division. As such,
20 Samuel Olson is Petitioner’s immediate custodian and is responsible for
21 Petitioner’s detention and removal. He is named in his official capacity.
22

23 20. Respondent Kristi Noem is the Secretary of the Department of
24 Homeland Security. She is responsible for the implementation and

1 enforcement of the Immigration and Nationality Act (INA), and oversees ICE,
2 which is responsible for Petitioner's detention. Ms. Noem has ultimate
3 custodial authority over Petitioner and is sued in her official capacity.

4 21. Respondent Todd Lyons is the acting director of U.S.
5 Immigration and Customs Enforcement (ICE). He is responsible for
6 overseeing the federal agency responsible for Petitioner's detention. Mr.
7 Lyons has custodial authority over Petitioner and is sued in his official
8 capacity.
9

10 22. Respondent Pam Bondi is the Attorney General of the United
11 States and the senior official of the U.S. Department of Justice. She has the
12 authority to adjudicate removal cases and to oversee the Executive Office for
13 Immigration Review (EOIR), which administers the immigration courts and
14 the Board of Immigration Appeals (BIA). Ms. Bondi has custodial authority
15 over Petitioner and is sued in her official capacity.
16

17 23. Respondent Joel Brott is employed by Sherburne County as
18 Sheriff of Sherburne County Jail, where Petitioner is detained. Sherburne
19 County Jail is operated by the sheriff's department of Sherburne County. He
20 has immediate physical custody of Petitioner. He is sued in his official
21 capacity.
22

23 LEGAL FRAMEWORK

24

A. Discretionary Detention

1
2 24. “It is well established that the Fifth Amendment entitles
3 [noncitizens] to due process of law in deportation proceedings.” *Demore v.*
4 *Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306
5 (1993)). “Freedom from imprisonment—from government custody, detention,
6 or other forms of physical restraint—lies at the heart of the liberty that [the
7 Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

8
9 25. Due Process requires that there be “adequate procedural
10 protections” to ensure that the government’s asserted justification for a
11 noncitizen’s physical confinement “outweighs the ‘individual’s
12 constitutionally protected interest in avoiding physical restraint.’” *Id.* at 690
13 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration
14 context, the Supreme Court only recognizes two purposes for civil detention:
15 preventing flight and mitigating the risks of danger to the community.
16 *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. A noncitizen may only
17 be detained based on these two justifications if they are otherwise statutorily
18 eligible for bond. *Zadvydas*, 533 U.S. at 690.

19
20 26. “The fundamental requirement of due process is the opportunity
21 be heard at a meaningful time and in a meaningful manner.” *Mathews v.*
22 *Eldridge*, 424 U.S. 319, 333 (1976). To determine what process Petitioner is
23 due, this Court should consider (1) the private interest affected by the
24

1 government action; (2) the risk that current procedures will cause an
2 erroneous deprivation of that private interest, and the extent to which that
3 risk could be reduced by additional safeguards; and (3) the government's
4 interest in maintaining the current procedures, including the governmental
5 function involved and the fiscal and administrative burdens that the
6 substitute procedural requirement would entail. *Id.* at 335.

8 27. The INA prescribes three basic forms of detention for the vast
9 majority of noncitizens in removal proceedings.

10 28. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in
11 standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals
12 in § 1226(a) detention are generally entitled to a bond hearing at the outset of
13 their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who
14 have been arrested, charged with, or convicted of certain crimes are subject to
15 mandatory detention, *see* 8 U.S.C. § 1226(c).

17 29. Second, the INA provides for mandatory detention of noncitizens
18 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent
19 arrivals seeking admission referred to under § 1225(b)(2).

20 30. Last, the INA also provides for detention of noncitizens who have
21 been ordered removed, including individuals in withholding-only proceedings,
22 *see* 8 U.S.C. § 1231(a)–(b).

1 31. This case concerns the detention provisions at §§ 1226(a) and
2 1225(b)(2).

3 32. The detention provisions at § 1226(a) and § 1225(b)(2) were
4 enacted as part of the Illegal Immigration Reform and Immigrant
5 Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03,
6 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was
7 most recently amended earlier this year by the Laken Riley Act, Pub. L.
8 No.119-1, 139 Stat. 3 (2025).

9 33. Following the enactment of the IIRIRA, EOIR drafted new
10 regulations explaining that, in general, people who entered the country
11 without inspection were not considered detained under § 1225 and that they
12 were instead detained under § 1226(a). *See* Inspection and Expedited
13 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
14 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

15 34. Thus, in the decades that followed, most people who entered
16 without inspection and were placed in standard removal proceedings received
17 bond hearings, unless their criminal history rendered them ineligible. That
18 practice was consistent with many more decades of prior practice, in which
19 noncitizens who were not deemed “arriving” were entitled to a custody
20 hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994);
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1 *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)
2 simply “restates” the detention authority previously found at § 1252(a)).

3 35. On July 8, 2025, ICE, “in coordination with” DOJ, announced a
4 new policy that rejected well-established understanding of the statutory
5 framework and reversed decades of practice.

6
7 36. The new policy, entitled “Interim Guidance Regarding Detention
8 Authority for Applicants for Admission,” claims that all persons who entered
9 the United States without inspection shall now be deemed “applicants for
10 admission” under 8 U.S.C. § 1225, and therefore are subject to mandatory
11 detention provision under § 1225(b)(2)(A). The policy applies regardless of
12 when a person is apprehended and affects those who have resided in the
13 United States for months, years, and even decades.

14
15 37. On September 5, 2025, the Board of Immigration Appeals (BIA)
16 adopted this same position in the case of *Matter of Yajure Hurtado*, 29 I&N
17 Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the
18 United States without admission or parole are considered applicants for
19 admission and are ineligible for immigration judge bond hearings.

20 38. Under the Supreme Court’s recent decision in *Loper Bright v.*
21 *Raimondo*, this Court should independently interpret the statute and give
22 the BIA’s expansive interpretation of § 1225(b)(2) no weight, as it conflicts
23 with the statute, regulations, and precedent. 603 U.S. 369 (2024).
24

1 39. ICE and EOIR have adopted this position even though federal
2 courts have rejected this exact conclusion. For example, after IJs in the
3 Tacoma, Washington, immigration court stopped providing bond hearings for
4 persons who entered the United States without inspection and who have
5 since resided here, the U.S. District Court in the Western District of
6 Washington found that such a reading of the INA is likely unlawful and that
7 § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon
8 arrival to the United States. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239
9 (W.D. Wash. 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025
10 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on
11 same conclusion).

12
13 40. “The idea that a different detention scheme would apply to non-
14 citizens ‘already in the country,’ as compared to those ‘seeking admission into
15 the country,’ is consonant with the core logic of our immigration system.”
16 *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24,
17 2025) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)).

18
19 41. DHS’s and DOJ’s interpretation defies the INA. As the *Rodriguez*
20 *Vazquez* court explained, the plain text of the statutory provisions
21 demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.
22

23 42. Section 1226(a) applies by default to all persons “pending a
24 decision on whether the [noncitizen] is to be removed from the United

1 States.” These removal hearings are held under § 1229a, to “decid[e] the
2 inadmissibility or deportability of a[] [noncitizen].”

3 43. The text of § 1226 also explicitly applies to people charged as
4 being inadmissible, including those who entered without inspection. *See* 8
5 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes
6 clear that, by default, such people are afforded a bond hearing under
7 subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
8 creates “specific exceptions” to a statute’s applicability, it “proves” that
9 absent those exceptions, the statute generally applies. *Rodriguez v. Bostock*,
10 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove*
11 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

12 13 44. Section 1226 therefore leaves no doubt that it applies to people
14 who face charges of being inadmissible to the United States, including those
15 who are present without admission or parole.

16 17 45. By contrast, § 1225(b) applies to people arriving at U.S. ports of
18 entry or who recently entered the United States. The statute’s entire
19 framework is premised on inspections at the border of people who are
20 “seeking admission” to the United States. 8 U.S.C.

21 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this
22 mandatory detention scheme applies “at the Nation’s borders and ports of
23 entry, where the Government must determine whether a[] [noncitizen]
24

1 seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S.
2 281, 287 (2018).

3 46. Accordingly, the mandatory detention provision of § 1225(b)(2)
4 does not apply to people like Petitioner, who have already entered and were
5 residing in the United States at the time they were apprehended.
6

7 **B. Maldonado Bautista Declaratory Relief**

8 47. On November 25, 2025, a Court granted class certification for
9 certain unlawfully detained non-citizens under Rules 23(a) and 23(b)(2)
10 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.).

11 48. *Maldonado Bautista v. Santacruz* certified the Bond Eligible
12 Class as “All noncitizens in the United States without lawful status who (1)
13 have entered or will enter the United States without inspection; (2) were not
14 or will not be apprehended upon arrival; and (3) are not or will not be subject
15 to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the
16 Department of Homeland Security makes an initial custody determination.”
17 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp.
18 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).
19

20 49. The declaratory judgment issued in *Maldonado Bautista* is not an
21 advisory opinion; it is a binding federal court order with the full “force and
22 effect of a final judgment.” 28 U.S.C. § 2201(a).
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1 56. Petitioner's criminal history involves no offenses subjecting him
2 to mandatory detention. He has had no contact with ICE prior to his
3 November arrest.

4 57. Petitioner is currently in removal proceedings before the Fort
5 Snelling Immigration Court pursuant to 8 U.S.C. § 1229a.

6 58. Petitioner has an LPR partner and helps raise her USC son.

7 59. Petitioner and his partner are both diabetic and struggle to
8 regulate their conditions during his detention.

9 60. Petitioner has been continuously employed at Bro-Tex for a
10 decade in Minnesota.

11 61. Petitioner is neither a flight risk nor a danger to the community.

12 62. Following Petitioner's arrest and transfer to Sherburne County
13 Jail, Petitioner subsequently requested a bond redetermination hearing
14 before an IJ.

15 63. On December 9, 2025, an IJ affirmed she lacked jurisdiction
16 under the *Yajure Hurtado* decision.

17 64. As a result, Petitioner remains in detention. Without relief from
18 this court, he faces the prospect of months, or even years, in immigration
19 custody, separated from his family and community.

20 65. Any appeal to the BIA, while available, is futile for his release.
21 The recent BIA decision in *Yajure Hurtado* would subject the Petitioner to
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1 detention without discretionary bond, likely in contravention of federal law.
2 Moreover, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney
3 General were defendants, DOJ affirmed its position that individuals like
4 Petitioner are applicants for admission and subject to detention under §
5 1225(b)(2)(A). See Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-
6 CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.
7

8 66. Further, any appeal to the BIA is futile as Respondents
9 disregarded the declaratory judgment issued in *Maldonado Bautista*. The
10 Maldonado Bautista declaratory judgment is a binding federal court order
11 with the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).
12 Despite this, the IJ decision taking notice of and finding *Maldonado Bautista*
13 did not provide her with jurisdiction demonstrates Respondents will not
14 abide by this Court order and will continue to illegally detain Bond Eligible
15 Class Members.
16

17 CLAIMS FOR RELIEF

18 COUNT I

19 Violation of 8 U.S.C. § 1226(a) 20 Unlawful Denial of Release on Bond 21

22 67. Petitioner incorporates by reference the allegations of fact set
23 forth in the preceding paragraphs.
24

1 68. Petitioner may be detained, if at all, pursuant to 8 U.S.C. §
2 1226(a).

3 69. Under § 1226(a) and its associated regulations, Petitioner is
4 entitled to a bond hearing. 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

5 70. Petitioner has not been, and will not be, provided with a bond
6 hearing as required by law.

7 71. Petitioner's continuing detention is therefore unlawful.

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11 **COUNT II**

12 **Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and**
13 **1003.19 Unlawful Denial of Release on Bond**

14 72. Petitioner incorporates by reference the allegations of fact set
15 forth in the preceding paragraphs.

16 73. In 1997, after Congress amended the INA through IIRIRA, EOIR
17 and the then-Immigration and Naturalization Service ("INS") issued an
18 interim rule to interpret and apply IIRIRA. Specifically, under the heading of
19 "Apprehension, Custody, and Detention of [Noncitizens]," the agencies
20 explained that "[d]espite being applicants for admission, [noncitizens] who
21 are present without having been admitted or paroled (formerly referred to as
22 [noncitizens] who entered without inspection) will be eligible for bond and
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24

1 bond redetermination.” 62 Fed. Reg. at 10323. The agencies thus made clear
2 that individuals who had entered without inspection were eligible for
3 consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226
4 and its implementing regulations.

5
6 74. The application of § 1225(b)(2) to Petitioner unlawfully mandates
7 his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

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10 **COUNT III**

11 **Violation of the INA By Erroneously Categorizing Petitioner’s**
12 **detention as being pursuant to 8 U.S.C. § 1225(b)(2)**

13 75. Petitioner incorporates by reference the allegations of fact set
14 forth in the preceding paragraphs.

15
16 76. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does
17 not apply to all noncitizens residing in the United States who are subject to
18 the grounds of inadmissibility. As relevant here, it does not apply to those
19 who previously entered the country and have been residing in the United
20 States prior to being apprehended and placed in removal proceedings by
21 Respondents. Such noncitizens are detained under § 1226(a), unless they are
22 subject to § 1225(b)(1), § 1226(c), or § 1231.
23
24

1 77. Upon information and belief, Petitioner has resided in the U.S.
2 for two decades. He is therefore neither an arriving alien nor an alien who is
3 now seeking admission to the United States.

4 78. The application of § 1225(b)(2) to Petitioner unlawfully mandates
5 his continued detention and violates the INA.
6

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10 **COUNT IV**
11 **Violation of Due Process**
12

13 79. Petitioner repeats, re-alleges, and incorporates by reference each
14 and every allegation in the preceding paragraphs as if fully set forth herein.

15 80. The government may not deprive a person of life, liberty, or
16 property without due process of law. U.S. Const. amend. V. “Freedom from
17 imprisonment—from government custody, detention, or other forms of
18 physical restraint—lies at the heart of the liberty that the Clause protects.”
19 *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653
20 (2001).
21

22 81. The government’s detention of Petitioner is unjustified.
23 Respondents deprived the Petitioner of the opportunity to demonstrate he
24

1 need not be detained. See *Zadvydas*, 533 U.S. at 690 (finding immigration
2 detention must further the twin goals of (1) ensuring the noncitizen's
3 appearance during removal proceedings and (2) preventing danger to the
4 community). Petitioner cannot present facts demonstrating that he can be
5 safely released back to his community when the Respondents illegally
6 deprive any IJ of jurisdiction to hear his case.
7

8 82. Respondents' continued immigration detention of the Petitioner
9 is disconnected from a "reasonable relationship" to any legitimate
10 nonpunitive purpose. *Zadvydas*, 533 U.S. at 690. Petitioner has a
11 fundamental interest in liberty and being free from official restraint.
12

13 83. The government's detention of Petitioner without a bond
14 redetermination hearing to determine whether he is a flight risk or danger to
15 others violates his right to due process. The court should issue a writ of
16 habeas corpus directing Respondents to release Petitioner to safeguard his
17 Fifth Amendment liberties.
18

19 COUNT V

20 **Respondents' Custody Determination is Contrary to Law**

21 84. Petitioner incorporates by reference the preceding paragraphs.

22 85. The Administrative Procedure Act (APA) provides that courts
23 "shall ... hold unlawful and set aside agency action" that is "arbitrary,
24

1 capricious, an abuse of discretion, or otherwise not in accordance with
2 law” or is “unsupported by substantial evidence.” 5 U.S.C. §§ 706(2)(A),
3 (E).

4 86. The APA claim is properly raised in the habeas petition because
5 it concerns a regulation that impacts the fact and duration of
6 confinement. “Challenges to the validity of any confinement or to
7 particulars affecting its duration are the province of habeas corpus[.]”
8 *Muhammad v. Close*, 540 U.S. 749, 750 (2004); *see also Otey v. Hopkins*,
9 5 F.3d 1125, 1130 (8th Cir. 1993).

10
11 87. Here, Petitioner’s APA challenge concerns the *Yajure Hurtado*
12 decision that affected the duration of Mr. Dircio Parra’s confinement by
13 extending Petitioner’s incarceration by stripping the IJ of jurisdiction.

14
15 88. Under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369
16 (2024), the Supreme Court held that “[c]ourts must exercise their
17 independent judgment in deciding whether an agency has acted within
18 its statutory authority, as the APA requires.” *Loper Bright Enters. v.*
19 *Raimondo*, 603 U.S. 369, 410 (2024).

20 89. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the
21 BIA held that all noncitizens who entered the United States without
22 admission or parole are now considered applicants for admission under
23 8 U.S.C. § 1225 and thus are ineligible for immigration judge bond
24

1 hearings. This precedential decision applies to those in Petitioner's
2 circumstances and was decided after the IJ ordered him to be released
3 on bond. As such, it will be applied to the currently pending appeal
4 with the BIA.

5
6 90. Because the BIA's precedential decision *Matter of Yajure*
7 *Hurtado*, categorizes Petitioner as detained under § 1225(b), *a statute*
8 *which does not apply to him*, the BIA decision is arbitrary, capricious,
9 and unlawful and should be set aside. Instead, Petitioner should be
10 categorized as detained under § 1226(a), which allows for release on
11 conditional parole or bond for individuals who entered the United
12 States without inspection.

13
14 91. For this reason, this Court should enter a declaratory judgment
15 finding that Petitioner is detained under 8 U.S.C. § 1226(a) and order
16 him released on the bond issued by the IJ.

17
18 **COUNT VI**

19 ***Matter of Yajure Hurtado* Violates Procedural Due Process as**
20 **Applied**

21 92. Petitioner incorporates by reference the preceding paragraphs.

22 93. When the government interferes with a liberty interest, "the
23 procedures attendant upon that deprivation [must be] constitutionally
24 sufficient." *Ky. Dept. of Corrections v. Thompson*, 490 U.S. at 460. The

1 constitutional sufficiency of procedures is determined by weighing
 2 three factors: (1) the private interest that will be affected by the official
 3 action, (2) the risk of erroneous deprivation of that interest through the
 4 available procedures, and (3) the government’s interest, including the
 5 function involved and the fiscal and administrative burdens that
 6 additional or substitute procedures would entail. *Mathews*, 424 U.S. at
 7 335.
 8

9 94. Petitioner has a weighty liberty interest as his freedom “from
 10 government . . . detention . . . lies at the heart of the liberty that [the
 11 Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 693.
 12

13 95. The risk of erroneous deprivation of Petitioner’s liberty is
 14 extremely high, given that the government, pursuant to *Matter of*
 15 *Yajure Hurtado*, is detaining Petitioner under a statute that does not
 16 apply to him and denying him his statutory right to a bond hearing on
 17 the erroneous assertion that he is subject to mandatory detention.
 18

19 96. Finally, the government’s interest in preserving its unilateral
 20 authority to prevent the release of noncitizens who have already shown
 21 they are neither a flight risk nor a danger is minimal. Providing
 22 additional procedural protections here introduces no additional
 23
 24

1 administrative burdens as Petitioner is statutorily entitled to a bond
2 hearing under 8 U.S.C. § 1226(a).

3 97. Because Respondents have custody of Petitioner in violation of
4 his Fifth Amendment rights, the Court should issue a writ of habeas
5 corpus directing Respondents to release Petitioner to safeguard his
6 constitutional liberties. 28 U.S.C. § 2241. Numerous courts throughout
7 the country have found that the use of the mandatory detention
8 provision, as affirmed in *Matter of Yajure-Hurtado*, violates an
9 individual's right to meaningful procedural due process. *See, e.g.,*
10 *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *12
11 (W.D. Tex. Sept. 22, 2025); *Lopez Santos v. Noem*, No. 3:25-CV-01193,
12 2025 WL 2642278, at *5 (W.D. La. Sept. 11, 2025); *Kostak v. Trump*,
13 No. CV 3:25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025). As
14 such, this Court should likewise find that Petitioner's detention
15 represents a violation of his right to procedural due process and order
16 him released according to the bond conditions set by the IJ.
17
18

19
20 **COUNT VII**

21 **Respondents Are Enjoined From Detaining Petitioner as a**
22 ***Maldonado Bautista* Class Member**

23 98. Petitioner incorporates by reference the preceding paragraphs.
24

1 99. On November 25, 2025, a 9th Circuit Court granted class
2 certification for certain unlawfully detained non-citizens under Rules 23(a)
3 and 23(b)(2) *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM
4 (C.D. Cal.).

5 100. *Maldonado Bautista v. Santacruz* certified the Bond Eligible
6 Class as “All noncitizens in the United States without lawful status who (1)
7 have entered or will enter the United States without inspection; (2) were not
8 or will not be apprehended upon arrival; and (3) are not or will not be subject
9 to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the
10 Department of Homeland Security makes an initial custody determination.”
11 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp.
12 *3d* ---, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

13 101. Petitioner is a non-citizen who (1) entered the United States
14 without inspection; (2) was not apprehended upon arrival; (3) was not subject
15 to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time of
16 initial custody determination according the charging documents in the record.

17 102. For this reason, this Court should enter a declaratory judgment
18 finding that Petitioner is a Bond Eligible Class member and order him
19 immediately released.
20
21
22

23 **PRAYER FOR RELIEF**
24

1 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 2 a. Assume jurisdiction over this matter;
- 3 b. Issue a writ of habeas corpus requiring that Respondents release
- 4 Petitioner or provide Petitioner with a bond hearing pursuant to
- 5 8 U.S.C. § 1226(a) within 14 days;
- 6
- 7 c. Declare the Petitioner is a member of the Maldonado Bautista
- 8 Bond Eligible Class and require that Respondents release
- 9 Petitioner or provide Petitioner with a bond hearing within 14
- 10 days;
- 11 d. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243,
- 12 directing Respondents to show cause why the petition for writ of
- 13 habeas corpus filed by Petitioner pursuant to 28 U.S.C. § 2241
- 14 should not be granted within three days;
- 15
- 16 e. Award Petitioner attorney's fees and costs under the Equal
- 17 Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412,
- 18 and on any other basis justified under law;
- 19 f. Grant any other and further relief that this Court deems just and
- 20 proper.

21 DATED this 11th day of December 2025.

22
23 /s/Gloria Contreras Edin
24 Gloria Contreras Edin (SBN 0353255)

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Contreras Edin Law, PA
663 University Ave. West
Suite 200
St. Paul, MN 55104
(651) 771-0019
Gloria@contrerasedinlaw.com

/s/Solomon Daniel Steen
Solomon Daniel Steen (SBN 0506802)
Contreras Edin Law, PA
663 University Ave. West
Suite 200
St. Paul, MN 55104
(651) 771-0019
solomon@contrerasedinlaw.com

Attorneys for Petitioner